

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	10-00114-01-CR-W-FJG
FRANCISCO MENDOZA-HERNANDEZ,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on September 8, 2010. Defendant Francisco Mendoza-Hernandez appeared in person and with Assistant Federal Public Defender Bob Kuchar. The United States of America appeared by Assistant United States Attorneys Brian Casey and Trey Alford.

I. BACKGROUND

On April 15, 2010, an indictment was returned charging defendant with one count of unlawful re-entry into the United States by an alien previously convicted of a felony, in violation of 8 U.S.C. § 1326(a) and (b)(1), and one count of transporting illegal aliens, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Casey announced that he and Mr. Alford will be the trial counsel for the government. The case agent to be seated at counsel table is Special Agent Ben Gatrost, ICE, and Scott Hammond, paralegal.

Mr. Kuchar announced that he will be the trial counsel for defendant Francisco Mendoza-Hernandez. Ron Ninemire, Chief Investigator, will be at counsel table.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Mr. Casey announced that the government intends to call 12 witnesses without stipulations or 8 to 10 witnesses with stipulations during the trial.

Mr. Kuchar announced that defendant Francisco Mendoza-Hernandez intends to call no witnesses during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. Casey announced that the government will offer approximately 50 exhibits in evidence during the trial.

Mr. Kuchar announced that defendant Francisco Mendoza-Hernandez will offer no exhibits in evidence during the trial.

VI. DEFENSES

Mr. Kuchar announced that defendant Francisco Mendoza-Hernandez will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Kuchar stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to status as an alien without permission; ten people found in the van as alleged aliens; admissibility of public records.

IX. TRIAL TIME

Counsel were in agreement that this case will take 2 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed May 5, 2010, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by September 8, 2010;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, September 15, 2010;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, September 15, 2010. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine on the following issues will probably be filed: Defendant's involvement in gang-related activity.

There are no unusual questions of law.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter which will be prepared by Judge James England, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by Friday, September 17, 2010. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. **The instructions shall be listed in the order they are to be given.**

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on September 20, 2010.

A Spanish-speaking interpreter is required. The government requests the second week of the docket to which defendant does not object.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
September 8, 2010

cc: Mr. Kevin Lyon